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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

FARZAD FARHBAKSH,

Defendant and Appellant.

D049213

(Super. Ct. No. SCD191147)

APPEAL from a judgment of the Superior Court of San Diego County, David J. Daniels, Judge. Affirmed.

On May 17, 2006, Farzad Farhbaksh entered guilty pleas to 32 counts of robbery. (Pen. Code, § 211.) There was no agreement with the prosecution but the court advised Farhbaksh that it would not impose a sentence in the 30-year range. On August 11, the court sentenced Farhbaksh to prison for 34 years: the three-year middle term on one robbery conviction with consecutive one-year terms on the remaining 31 robbery convictions (one-third the middle term). On December 1, the court set aside the sentence

and set a hearing for December 21 on Farhbaksh's motion to reduce the sentence to not more than 14 years in light of the court's statement when Farhbaksh entered the guilty pleas or to withdraw the guilty pleas because: his attorney misadvised him regarding the length of possible consecutive terms; two of the robberies Farhbaksh pled guilty to having committed were attempted robberies; and Farhbaksh was improperly interrogated after his arrest. On December 21, the People dismissed the charges on the two counts Farhbaksh claimed were attempted robberies, and the court denied the motion to withdraw the guilty pleas. It sentenced Farhbaksh to prison for 28 years: the three-year middle term on one count with consecutive one-year terms on 25 counts and concurrent terms on four counts. In a request for a certificate of probable cause, Farhbaksh alleged that the guilty pleas were induced by his trial counsel's misstatement that consecutive terms would only be eight months each, and that consecutive sentences violated the Sixth Amendment (see *Cunningham v. California* (2007) \_\_\_ U.S. \_\_\_ [127 S.Ct. 856] (*Cunningham*)). The court issued a certificate of probable cause. (Cal. Rules of Court, rule 8.304(b).)

## FACTS

Viewing the record in the light most favorable to the judgment below (*People v. Johnson* (1980) 26 Cal.3d 557, 576), the following occurred. Between April 21, 2004, and August 30, 2005, Farhbaksh entered 32 banks across San Diego County and in all presented a note demanding money. In all but four (counts 9, 12, 19, and 27), he threatened that he had a gun and/or bomb. In total, he took over \$100,000. In two of the crimes, counts 26 and 28, Farhbaksh left before obtaining the money. He was eventually

detained and questioned at the San Ysidro border crossing. Because Farhbaksh entered guilty pleas, he cannot challenge the facts underlying the convictions. (Pen. Code, § 1237.5; *People v. Martin* (1973) 9 Cal.3d 687, 693.) We need not recite the facts in greater detail.

When Farhbaksh entered the guilty pleas, the court advised him that it told his lawyer it would not impose a sentence in the 30-year range. The court added, "It is going to be less than that, and maybe significantly less than that."

### DISCUSSION

Appointed appellate counsel has filed a brief setting forth the evidence in the superior court. Counsel presents no argument for reversal but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible but not arguable issues: (1) whether the trial court abused its discretion in denying the motion to withdraw the guilty pleas; (2) whether the trial court abused its discretion in imposing the 28-year prison term; and (3) whether the trial court denied Farhbaksh the right to a jury trial when it entered the consecutive terms.

We granted Farhbaksh permission to file a brief on his own behalf. He has not responded. A review of the entire record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, including the possible issues referred to pursuant to *Anders v. California, supra*, 386 U.S. 738, has disclosed no reasonably arguable appellate issue. Competent counsel has represented Farbaksh on this appeal.

DISPOSITION

The judgment is affirmed.

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NARES, J.

WE CONCUR:

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McCONNELL, P. J.

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HUFFMAN, J.